

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1960

ENROLLED

SENATE BILL NO. 15

(By Mr. Widrick & Hilborn)

PASSED Jan. 21, 1960

In Effect from Passage



Filed in Office of the Secretary of State
of West Virginia **JAN 27 1960**
JOE F. BURDETT
SECRETARY OF STATE

ENROLLED

Senate Bill No. 15

(BY MR. HEDRICK and MR. HOLDEN)

[Passed January 21, 1960; in effect from passage.]

AN ACT authorizing the county court of Harrison county and the county court of Marion county to create an airport authority, specifying the purposes of the authority and providing for membership in the authority; for the appointment and removal of members; for the acquisition by the authority of real estate and personal property; for the acquisition, construction, improvement, maintenance and operation by the authority of a public airport; for corporate existence of the authority; for the issuance by the authority of mortgage bonds, revenue bonds, other bonds, debentures, notes and securities, and giving security for the payment thereof; for the authority to exercise the power of eminent domain; for tax exemption for the property, funds and

obligations of the authority; for acquisition by the authority from the county court of Harrison county of the present county airport, known as the "Benedum Airport", and the improvement and operation thereof; for the authority to lease the airport; for the county court of Harrison county and the county court of Marion county to become the lessees of the airport and pay the rental therefor; for contributions to the funds of the authority by the county court of Harrison county and the county court of Marion county and others; for keeping the funds and accounts of the authority; for the disposition of any surplus funds; for covering the employees of the authority by workmen's compensation; and for dissolution of the authority.

Be it enacted by the Legislature of West Virginia:

Section 1. *Benedum Airport Authority Authorized.*—

2 The county court of Harrison county and the county court
3 of Marion county are hereby authorized to create and
4 establish a public agency to be known as the "Benedum
5 Airport Authority" for the purposes and in the manner
6 hereinafter set forth.

Sec. 2. *Purposes.*—The authority is hereby authorized
2 and empowered to acquire, equip, construct, improve,
3 maintain and operate a public airport with all usual and
4 convenient appurtenances and facilities in Harrison
5 county, West Virginia, to serve as a public airport for
6 the convenience and accommodation of the inhabitants
7 of Harrison county and Marion county and the public
8 generally.

Sec. 3. *Members of Authority.*—The management and
2 control of the “Benedum Airport Authority”, its property,
3 operations, business and affairs, shall be lodged in a
4 board of six persons who shall be known as the members
5 of the authority and who shall be appointed for a term
6 of three years each, three members by the county court
7 of Harrison county, and three members by the county
8 court of Marion county, except that, as to the first board
9 appointed, the term of one member appointed by each
10 county court shall expire on the first day of March next
11 ensuing, the term of another member appointed by each
12 county court shall expire on the first day of the following
13 March, and the term of the third original member ap-

14 pointed by each county court shall expire on the first day
15 of the next following March. All members of the board
16 except the members of the first board shall be appointed
17 for full three-year terms. As a member's term expires,
18 the county court which appointed such member shall
19 appoint a member for a full term of three years. A mem-
20 ber may be reappointed for such additional term or terms
21 as the county court appointing him may deem proper.
22 If a member resigns, is removed or for any reason his
23 membership terminates during his term of office, a suc-
24 cessor member to fill out the remainder of his term shall
25 be appointed by the county court which appointed him.
26 Members in office at the expiration of their respective
27 terms shall continue to serve until their successors have
28 been appointed and have qualified. The county court
29 of the county appointing a member may at any time for
30 good cause, and upon at least five days' notice in writing
31 to such member, remove such member of the board of
32 the authority by an order duly entered of record in the
33 record book of such court and may appoint a successor
34 member for any member so removed. If any member

35 objects to being so removed, he may, in writing, demand
36 a hearing, and the county court proposing to remove
37 him shall promptly thereafter, in its own county, hold a
38 public hearing thereon. After such public hearing, the
39 county court holding the hearing shall determine whether
40 the member shall be removed or shall be permitted to
41 continue in office.

Sec. 4. *Qualification of Members of the Authority.*—

2 All members of the board of the authority shall be citizens
3 of West Virginia, over thirty years of age, and residents
4 of either Harrison county or Marion county. No member
5 of the board shall be engaged in the aviation business as
6 a major part of his activities. Not more than two mem-
7 bers of the authority from the same county shall belong to
8 the same political party. One member of the board of the
9 authority from each county may also be a member of the
10 county court of his county.

Sec. 5. *Compensation of Members of the Authority.*—

2 No member of the board of the authority shall receive
3 any compensation, whether in form of salary, per diem
4 allowances or otherwise, for or in connection with his

5 services as such member. Each member shall, however,
6 be entitled to reimbursement by the authority for any
7 necessary expenditures in connection with the perform-
8 ance of his general duties as such member.

Sec. 6. *Authority to be a Public Corporation.*—The
2 authority when created, and the members thereof, shall
3 constitute and be a public corporation under the name
4 of “Benedum Airport Authority”, and as such shall have
5 perpetual succession, may contract and be contracted
6 with, sue and be sued, plead and be impleaded, and have
7 and use a common seal.

Sec. 7. *Powers.*—The “Benedum Airport Authority” is
2 hereby given power and authority as follows:

3 (1) To make and adopt all necessary by-laws, rules
4 and regulations for its organization and operations not
5 inconsistent with law;

6 (2) To elect its own officers, to appoint committees
7 and to employ and fix the compensation for personnel
8 necessary for its operation;

9 (3) To enter into contracts with any person, govern-
10 mental department, firm or corporation, including both

11 public and private corporations, and generally to do any
12 and all things necessary or convenient for the purpose
13 of acquiring, equipping, constructing, maintaining, im-
14 proving, extending, financing and operating a public air-
15 port in Harrison county, West Virginia;

16 (4) To delegate any authority given to it by law to
17 any of its officers, committees, agents or employees;

18 (5) To apply for, receive and use grants in aid, dona-
19 tions and contributions from any source or sources, and
20 to accept and use bequests, devises, gifts and donations
21 from any person, firm or corporation;

22 (6) To acquire lands and hold title thereto in its own
23 name;

24 (7) To purchase, own, hold, sell and dispose of per-
25 sonal property and to sell, lease or otherwise dispose of
26 any real estate which it may own;

27 (8) To borrow money and execute and deliver nego-
28 tiable notes, mortgage bonds, other bonds, debentures,
29 and other evidences of indebtedness therefor, and give
30 such security therefor as shall be requisite, including
31 giving a mortgage or deed of trust on its airport properties

32 and facilities in connection with the issuance of mortgage
33 bonds.

34 (9) To raise funds by the issuance and sale of revenue
35 bonds in the manner provided by the applicable pro-
36 visions of article four-a, chapter eight of the code of West
37 Virginia, being chapter sixty-eight, acts of the Legisla-
38 ture, one thousand nine hundred thirty-five, as amended,
39 it being hereby expressly provided that the "Benedum
40 Airport Authority" is a "municipal authority" within the
41 definition of that term as used in said article four-a,
42 chapter eight of the code; and

43 (10) To expend its funds in the execution of the
44 powers and authority herein given.

Sec. 8. *Indebtedness of the Authority.*—The authority
2 may incur any proper indebtedness and issue any obliga-
3 tions and give any security therefor which it may deem
4 necessary or advisable in connection with carrying out
5 its purposes as hereinbefore mentioned. No statutory
6 limitation with respect to the nature or amount of
7 indebtedness which may be incurred by municipalities
8 or other public bodies shall apply to indebtedness of the

9 authority. No indebtedness of any nature of the authority
10 shall constitute an indebtedness of the county court of
11 Harrison county or the county court of Marion county or
12 a charge against any property of said county courts, or
13 either of them. No obligation incurred by the authority
14 shall give any right against any member of the county
15 court of Harrison county or the county court of Marion
16 county or any member of the board of the authority. The
17 rights of creditors of the authority shall be solely against
18 the authority as a corporate body and shall be satisfied
19 only out of property held by it in its corporate capacity.

Sec. 9. *Agreements in Connection with Obtaining*
2 *Funds.*—The authority may, in connection with obtaining
3 funds for its purposes, enter into any agreement with any
4 person, firm or corporation, including the federal govern-
5 ment, or any agency or subdivision thereof, containing
6 such provisions, covenants, terms and conditions as the
7 authority may deem advisable.

Sec. 10. *Authority to Have Right of Eminent Domain.*—
2 Whenever it shall be deemed necessary by the authority
3 in connection with the exercise of its powers herein con-

4 ferred to take or acquire any lands, structures or build-
5 ings or other rights, either in fee or as easements for the
6 purposes herein set forth, the authority may purchase
7 the same directly or through its agents from the owner
8 or owners thereof, or failing to agree with the owner or
9 owners thereof, the authority may exercise the power of
10 eminent domain in the manner provided for condemna-
11 tion proceedings in chapter fifty-four of the code of West
12 Virginia, as heretofore and hereafter amended.

Sec. 11. *Property, Bonds and Obligations of Authority*

2 *Exempt from Taxation.*---The authority shall be exempt
3 from the payment of any taxes or fees to the state or any
4 subdivisions thereof or to any officer or employee of
5 the state or other subdivision thereof. The property of
6 the authority shall be exempt from all local and munici-
7 pal taxes. Bonds, notes, debentures and other evidence
8 of indebtedness of the authority are declared to be issued
9 for a public purpose and to be public instrumentalities,
10 and, together with interest thereon, shall be exempt from
11 taxes.

Sec. 12. *County Court Authorized to Convey Present*

2 *Airport Properties and Facilities to the Authority.*—The
3 county court of Harrison county is hereby authorized
4 to convey to the authority the present airport property
5 owned by the county court, known as the “Benedum Air-
6 port”, together with all the appurtenances and facilities
7 therewith, such conveyance to be without consideration
8 or for such price and upon such terms and conditions as
9 the county court and the authority shall deem proper.

Sec. 13. *Authority May Lease Airport and Facilities*
2 *to County Courts of Harrison and Marion Counties or*
3 *Other Lessee or Lessees.*—The authority may lease its
4 airport and all the appurtenances and facilities there-
5 with to the county court of Harrison county and the
6 county court of Marion county as joint lessees, or to any
7 other available lessee, or joint lessees, at such rental and
8 upon such terms and conditions as the authority shall
9 deem proper. If the authority determines to lease the
10 airport and its appurtenances and facilities, it shall first
11 offer the same to the county court of Harrison county
12 and the county court of Marion county upon an annual
13 lease, and it shall not lease the airport and its appurten-

ances and facilities to any other lessee until the county court of Harrison county and the county court of Marion county have indicated that they do not desire to lease said properties. The county court of Harrison county and the county court of Marion county are hereby authorized to enter into a lease with the authority for said airport and appurtenances and facilities at such rental and upon such terms and conditions as they shall deem proper, and the county court of Harrison county and the county court of Marion county are each hereby authorized to levy taxes as provided by law for the purpose of paying their respective portions of the rent for said airport, appurtenances and facilities, said county courts to be equal lessees thereof.

Sec. 14. *Disposition of Surplus of Authority.*—If the authority should realize a surplus, whether from operating the airport or leasing it for operation, over and above the amount required for the maintenance, improvement and operation of the airport and for meeting all required payments on its obligations, it shall set aside such reserve for future operations, maintenance, improvements and

8 contingencies as it shall deem proper and shall then ap-
9 ply the residue of such surplus, if any, to the payment
10 of any recognized and established obligations not then
11 due; and after all such recognized and established obli-
12 gations have been paid off and discharged in full, the
13 authority shall, at the end of each fiscal year, set aside
14 the reserve for future operations, maintenance, improve-
15 ments and contingencies, as aforesaid, and then pay the
16 residue of such surplus, if any, to the county court of
17 Harrison county and the county court of Marion county
18 in the proportions in which they respectively made con-
19 tributions to the authority for the airport during the year
20 just ended, until their respective contributions for such
21 year have been repaid in full, and the residue, if any, of
22 such surplus shall be paid over to said two county courts
23 in the proportions in which they have respectively made
24 capital contributions for constructing, altering, extending
25 and improving the airport from the time of the inception
26 of the airport, about the year one thousand nine hundred
27 thirty-five, until the date of such distribution, which dis-
28 tributions, if any, shall be used by said county courts for

29 general county purposes in their respective counties.

Sec. 15. *Contributions to Authority by County Courts*

2 *and Others; Funds and Accounts of the Authority.—*

3 Contributions may be made to the authority from time to
4 time by the county court of Harrison county and the
5 county court of Marion county and by any persons, firms
6 or corporations that shall desire so to do. All such funds
7 and all other funds received by the authority shall be
8 deposited in such bank or banks as the authority may
9 direct and shall be withdrawn therefrom in such manner
10 as the authority may direct. The authority shall keep
11 strict account of all its receipts and expenditures and
12 shall each quarter make a quarterly report to the county
13 court of Harrison county and the county court of Marion
14 county containing an itemized account of its receipts and
15 disbursements during the preceding quarter. Such re-
16 port shall be made within sixty days after the termina-
17 tion of the quarter. Within sixty days after the end of
18 each fiscal year, the authority shall make an annual
19 report to each of said county courts containing an itemized
20 statement of its receipts and disbursements for the pre-

21 ceding year, and such annual report shall be published
22 once a week for two successive weeks in two newspapers
23 of opposite politics of general circulation in, and pub-
24 lished in, Harrison county, West Virginia, and for a like
25 period in two newspapers of opposite politics of general
26 circulation in, and published in Marion county, West
27 Virginia. The books, records and accounts of the au-
28 thority shall be subject to audit and examination by the
29 office of the state tax commissioner of West Virginia and
30 by any other proper public official or body in the manner
31 provided by law.

Sec. 16. *Employees to be Covered by Workmen's Com-*
2 *pensation.*—All employees of the authority eligible there-
3 to shall be deemed to be within the workmen's compen-
4 sation act of West Virginia, and premiums on their com-
5 pensation shall be paid by the authority as required by
6 law.

Sec. 17. *Dissolution of Authority.*—The authority may
2 at any time pay off and discharge in full all of its in-
3 debtedness, obligations, and liabilities, convey the air-
4 port properties, appurtenances and facilities to the county

5 court of Harrison county and the county court of Marion
6 county and be dissolved. If said airport properties, ap-
7 purtenances and facilities are conveyed to the county court
8 of Harrison county and the county court of Marion county,
9 they shall be conveyed in the proportions in which each
10 county court has made capital contributions for con-
11 structing, altering, extending and improving the airport
12 and its appurtenances and facilities from the time of the
13 inception of the airport, about the year one thousand nine
14 hundred thirty-five, until the date of such conveyance.
15 Before making such conveyance of its properties to said
16 county courts, the authority shall first publish notice of
17 its intentions so to do and of its intention to be dissolved
18 once a week for four successive weeks in two newspapers
19 of opposite politics published in, and of general circula-
20 tion in, Harrison county, West Virginia, and for a like
21 period in two newspapers of opposite politics published
22 in, and of general circulation in, Marion county, West
23 Virginia. Certificates from the publishers of the papers
24 of such publications shall be filed with the county court of
25 Harrison county and the county court of Marion county

26 on or before the day on which the deed conveying said
27 properties is delivered. Any funds remaining in the hands
28 of the authority at the time of the conveyance of said
29 properties shall be by the authority paid over to the
30 county court of Harrison county and the county court
31 of Marion county in the respective proportions in which
32 the airport properties, appurtenances and facilities were
33 conveyed to them, which funds shall be used by said
34 county courts for purposes in connection with said airport.
35 Upon the payment of its indebtedness, obligations and
36 liabilities, the publishing of the notices aforesaid, the con-
37 veyance of its properties, and the paying over to said
38 county courts of any funds remaining in its hands, the
39 authority shall cause a certificate showing its dissolution
40 to be executed under its name and seal and to be re-
41 corded in the office of the clerk of the county court of
42 Harrison county and in the office of the clerk of the
43 county court of Marion county, and thereupon its dissolu-
44 tion shall be complete.

Sec. 18. *What Shall Constitute Capital Contributions*

2 *to the Airport.*—At the time of establishing the authority

3 the county court of Harrison county and the county court
4 of Marion county may by agreement stipulate the amount
5 that each has contributed by way of capital contributions
6 for constructing, altering, extending and improving the
7 airport and its appurtenances and facilities from the time
8 of the inception of the airport, about the year one thou-
9 sand nine hundred thirty-five, until the establishment
10 of the authority. If the amounts cannot be agreed upon,
11 they shall be determined by a certified public accountant
12 to be selected by said county courts. After the authority is
13 established, it shall keep a careful record of all capital
14 contributions to it by each county court. If the two county
15 courts should become lessees and operate the airport
16 under a lease from the authority, all sums paid by them
17 to the authority as rent shall be treated and considered
18 as capital contributions, unless both county courts agree
19 otherwise in writing.

Sec. 19. *Automatic Termination of the Right to Estab-*
2 *lish the Authority.*—If on or before the first day of March,
3 one thousand nine hundred seventy, the county court
4 of Harrison county and the county court of Marion county

5 have not appointed the members of the authority who are
6 to constitute the board for management of its business and
7 affairs, as provided in section three hereof, all right to
8 create and establish "Benedum Airport Authority" under
9 this act shall automatically terminate.

Sec. 20. *Liberal Construction of Act.*—It is the purpose
2 of this act to provide for the acquisition, construction,
3 improvement, extending, maintenance and operation of
4 a public airport in a prudent and economical manner,
5 and this act shall be liberally construed as giving to the
6 authority full and complete power reasonably required
7 to give effect to the purposes hereof. The provisions of
8 this act are in addition to and not in derogation of any
9 power existing in the county court of Harrison county
10 and the county court of Marion county under any con-
11 stitutional or statutory provisions which they, or either
12 of them, may now have, or may hereafter acquire.

Sec. 21. *Provisions Severable.*—The several sections
2 and provisions of this act are severable, and if any sec-
3 tion or provision hereof shall be held unconstitutional,
4 all the remaining sections and provisions of this act shall
5 nevertheless remain valid.

Sec. 22. *This Act and Chapter 183 Acts of the Legislature, 1959, Both to Remain in Effect Until an Airport Authority is Established.*—The county court of Harrison county was authorized to create an airport authority to be known as the “Benedum Airport Authority” by chapter one hundred eighty-three, acts of the Legislature, one thousand nine hundred fifty-nine. This act does not repeal chapter one hundred eighty-three, acts of the Legislature, one thousand nine hundred fifty-nine, except that if an airport authority is created and established by the county court of Harrison county and the county court of Marion county under this act, then chapter one hundred eighty-three, acts of the Legislature, one thousand nine hundred fifty-nine, shall no longer be in effect; but if the county court of Harrison county should create and establish an airport authority under chapter one hundred eighty-three, acts of the Legislature, one thousand nine hundred fifty-nine, then this act shall thereupon no longer be in effect.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

W. A. Gaspuch
Chairman Senate Committee

Eudora Andrees
Chairman House Committee

Originated in the Senate.

Takes effect from passage.

Howard Hughes
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Ralph Bean
President of the Senate

J. H. Bailey
Speaker House of Delegates

The within approved this the 26th
day of January, 1960.

Jeff H. Underwood
Governor

